THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 581 OF 2006

Dated 6th January 2006

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Between:

Sri K.Babaji S/o. Late Narsimha Raju

…Petitioner

And

The Depot Manager,

APSRTC, Vizianagaram Depot, Vizianagaram & another

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 581 OF 2006

O R D E R:

The petitioner is a conductor in the Vizianagaram Depot of APSRTC. The first respondent initiated disciplinary proceedings against the petitioner, on the allegations of cash and ticket irregularities. Enquiry officer was appointed, and he, in turn, submitted a report on 22.11.2005, holding that the charges leveled against the petitioner is proved. Based upon that, the first respondent issued a show-cause notice to the petitioner, directing him to explain, as to why suitable penalty shall not be imposed on him. Petitioner challenges the same.

Learned counsel for the petitioner submits that even according to the report of the enquiry officer, the sole passenger, from whom the petitioner was alleged to have collected a fare of Rs.6/-, has stated during the course of disciplinary enquiry that he did not collect the fair, and with that, there does not exist any basis, for the disciplinary proceedings. He further contends that the petitioner had a clean record,

and in respect of a conductor by name A.S.Rao, who was removed on certain charges, the Review Authority, the second respondent herein, has directed reinstatement, taking into account the past record of that employee. Learned Standing Counsel for respondent, on the other hand, submits that the writ petition is not maintainable against a show-cause notice.

This Court does not find any basis to interfere with the show-cause notice. The reason is that the petitioner is not able to point out any jurisdictional error, or lack of competence, on the part of the authority, who issued the show-cause notice. It is true that in the report of the enquiry officer, an observation is made to the effect that the only passenger, from whom the petitioner said to have collected the fair, has deposed otherwise, in the disciplinary proceedings. There is no reason to doubt that the first respondent would not take this aspect, into account. Further, the past conduct of an employee, who is subjected to disciplinary proceedings, would certainly be a factor to be taken into account, by the disciplinary authority. If the past record of the petitioner is clean, and if he is able to point out any major defect in the findings of the enquiry officer, the first respondent can certainly take the same, into account.

The writ petition is accordingly disposed of, leaving it open to the petitioner to submit an explanation, pointing out the discrepancies in the report of the enquiry officer. It is needless to mention that the first respondent shall appreciate the same from proper perspective before passing final orders. There shall be no order as to costs.

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6th January 2006

Note: Issue C.C. by Monday

(B/o)

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